

REMARKS

Claim Amendments

Claims 1, 2, 4-10 and 13 are present in the application. Claims 3, 11 and 12 are canceled. Claim 1 is amended.

Claim 1 is amended to provide that R₂, R₃, R₄, R₅ and R₆ are not hydrogen, and that Y is not hydrogen or $-C\equiv CH$.

No new matter has been added by way of the claim amendments.

Restriction and Election

The Examiner requires restriction under 35 USC 372, which provides that the question of unity of invention can be reexamined under 35 USC 121.

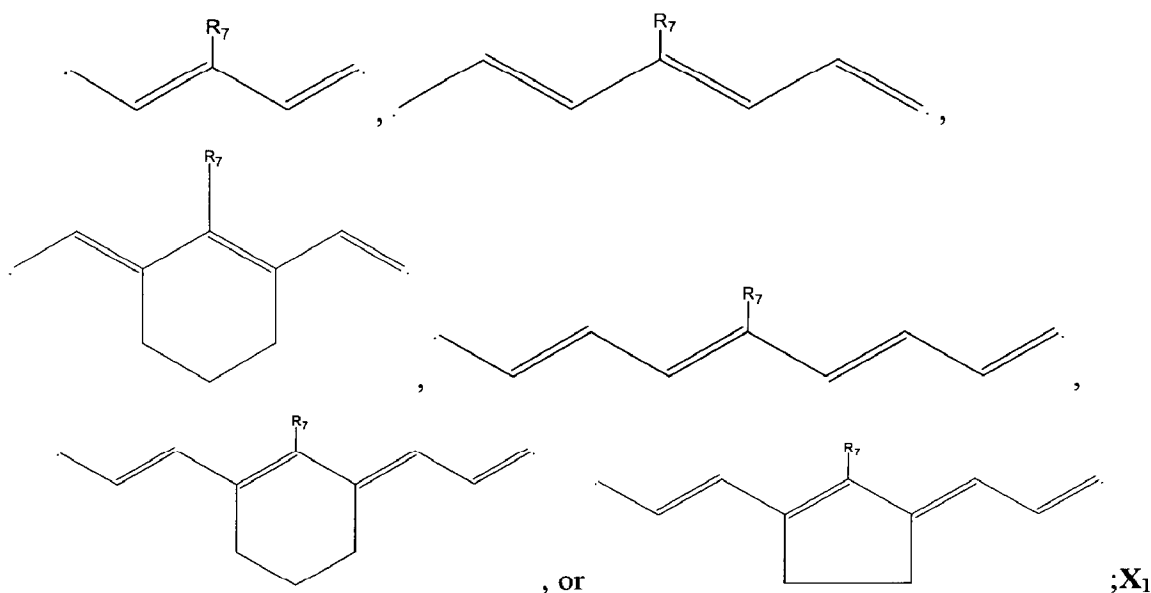
The Examiner considers that the application contains more than one invention which is not so linked as to form a single general inventive concept, relying upon PCT Rules 13.1 and 13.2 as requiring that the unity of invention be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The Examiner then lists various groups of inventions and invites the Applicant to identify and restrict the claims to one of these groups for examination.

The Examiner requires restriction of the claims with regard to the elements **Q**, **X₁**, **X₂**, **W₁**, and **W₂**. The Examiner identified 16 possible Groups.

Applicants hereby traverse the Examiner's determination that the application contains more than one invention which is not so linked as to form a single general inventive concept.

There is a single general inventive concept described in the specification and claimed; namely, to provide a cyanine-type fluorescent marker having two differently-functionalized linkers enabling the formation of a complex comprising the cyanine-type marker and either two different biomolecules or a biomolecule and an additional fluorescent dye, or a complex of comprising the cyanine-type marker and a biomolecule immobilized on a solid support. The two differently-functionalized linkers have different reaction kinetics and therefore have a controlled site-specific reaction on each linker. This single general inventive concept is covered by the claims wherein one of R₂, R₃, R₄, R₅ and R₆ is a first function group (namely, $-R_8-Y$) or a functionalized linker capable of reacting with a biomolecule or a dye or a solid support, which is different from the second $-C\equiv CH$ functional group.

Applicant understands that the Examiner is restricting the linking claim to one of the species for examination. Applicants identify new species **Group XVII**, wherein **Q** is



and **X₂** are both $-\text{C}(\text{CH}_3)_2$, and **W₁** and **W₂** are both benzene ring or a naphthalene ring without heteroatom substitution. Applicants believe that the group of members **Q** are not so numerous and widely divergent, and are sufficiently generic (all are a substituted alkene).

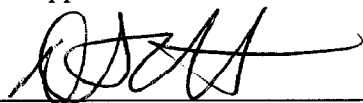
Applicant also hereby elects species Group XVII for further examination. In the event that the Examiner finds Group XVII allowable, Applicants request the remaining species of the linking claim be examined.

CONCLUSION

Applicant believes a full and complete response to the Action has been made.

Respectfully submitted,

For: Giuseppe CAPUTO

By 

Daniel F. Nesbitt

Attorney for Applicant

Registration No. 33,746

(513) 229-0383

Customer Number 26868

November 13, 2007